10/12/23 • COVID › NEWS

'Epitome of a Kangaroo Court': Lawsuit Targets COVID Vaccine Injury Compensation Program, Liability for Vaccine Makers

A lawsuit filed Tuesday challenges the liability shield provided by U.S. lawmakers to vaccine manufacturers. The lawsuit also claims that the government-run compensation program under which people injured by certain vaccines can request compensation operates unfairly and violates the constitutional rights of the injured.

By Michael Nevradakis, Ph.D.

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A lawsuit filed Tuesday challenges the liability shield provided by U.S. lawmakers to vaccine manufacturers. The lawsuit also claims that the government-run compensation program under which people injured by certain vaccines can request compensation operates unfairly and violates the constitutional rights of the injured.

Plaintiffs in the lawsuit include React19 — an advocacy group whose 36,000-plus members were injured by the COVID-19 vaccines — and eight vaccine-injured individuals. The Informed Consent Action Network (ICAN) is funding the lawsuit for the plaintiffs.

The lawsuit names several federal entities, including the U.S. Department of Health and Human Services. It challenges the Public Readiness and Emergency Preparedness (PREP) Act and the Countermeasures Injury Compensation Program (CICP).

The complaint was filed in the U.S. District Court for the Western District of Louisiana Monroe Division, where other lawsuits making COVID-19-related constitutional claims were filed, including Missouri et al. v. Biden et al. and Kennedy et al. v. Biden et al.

According to ICAN, the PREP Act and CICP "violate the constitutional rights of those injured or killed by a COVID-19 vaccine." ICAN describes the CICP as "a wholly insufficient, unjust, underfunded, and consequently unconstitutional compensation scheme."

The complaint states, "The federal law that created the CICP immunizes vaccine manufacturers from financial liability except for cases of 'willful misconduct.' ... In exchange, CICP is supposed to compensate those who are injured by 'covered countermeasures' like the COVID-19 vaccine" — but almost invariably does not.

According to the complaint:

> "CICP is akin to a Potemkin village; it is an elaborate façade designed to hide an undesirable reality. CICP is the epitome of a kangaroo court or a star chamber — a proceeding that ignores recognized standards of law and justice, is grossly unfair, and comes to a predetermined conclusion."

The plaintiffs allege CICP violates the Fifth and Seventh Amendments of the U.S. Constitution by not providing "basic due process protections, transparency, and judicial oversight."

"Much of the program's operations are shrouded in secrecy," said Kim Mack Rosenberg, acting general counsel for Children's Health Defense (CHD). "The lack of transparency coupled with the stark limitations on compensation under the program is profound."

In reference to the PREP Act, ICAN states that it "provides near-complete immunity" to COVID-19 vaccine manufacturers "for injuries and deaths caused by their COVID-19 vaccines, as well as immunity to those who administer these products."

The PREP Act, which provides a legal liability shield to vaccines and treatments issued under Emergency Use Authorization (EUA), will remain in effect until Dec. 31, 2024.

According to the plaintiffs, the COVID-19 vaccines led to serious side effects that have significantly impacted their lives. This includes Bell's palsy, blood clots, chronic fatigue syndrome, heart palpitations, small fiber neuropathy, vascular inflammation and vertigo.

The plaintiffs seek to enjoin the federal government from forcing them to submit their claims to CICP until a "reasonable alternative remedy outside of court" with "basic legal and constitutional protections" is developed.

This would also include winning the right to perform discovery and review evidence, present expert witnesses, seek financial damages, appeal adverse rulings and attain the right to pursue claims in civil courts — none of which are availa

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Lawsuit seeks 'fair and equitable treatment' for the vaccine-injured

According to ICAN, "If this suit is successful, the relief sought will apply to all COVID-19 vaccine-injured individuals in the U.S."

"We seek to attain fair and equitable treatment for all vaccine-injured Americans, beginning with restoring our essential constitutional rights," Brianne Dressen, founder of React19, told The Defender.

"ICAN and React19's members have worked on many efforts to find legal pathways over the last two years. We are thrilled to see this case be filed and to be able to stand in solidarity with our fellow injured Americans," she added.

Attorney Aaron Siri, lead counsel for ICAN, told The Defender that both ICAN and his law firm "began getting inundated with calls" from vaccine-injured individuals "almost immediately following the Emergency Use Authorization of the first COVID-19 vaccines," but had to inform them that federal law was "unequipped" to handle their claims.

"Because there is no real way to help these people on an individual basis, the only option was litigation that would challenge CICP's constitutionality and help on a much larger scale," Siri said.

California-based attorney Greg Glaser told The Defender that current law gives the government no incentive to respond to vaccine injury claims, but many incentives to declare and prolong health-related emergencies.

"PREP should be called 'prop,' because it props up a larger public health apparatus incentivizing and protecting governments who inject citizens during emergencies," he said. As a result, "Emergencies become more likely to happen and also longer in duration when they happen."

According to Rosenberg, "These lawsuits raise serious questions about the activities of the U.S. government in the COVID-19 injection programs, its mandates and other coercive actions with respect to compliance in receiving the injections, and conversely, its washing its hands of the injured and dead and hiding behind immunity shields."

Plaintiffs in the new lawsuit have identified a potentially winning legal strategy, Glaser said. "The plaintiffs correctly seek to put liability at the sources of harm, which are manufacturers, distributors and mandators."

The lawsuit follows a Michigan court decision in August finding that another COVID-19 treatment approved under EUA, remdesivir, does not enjoy protection from the PREP Act's liability shield, due to "negligent manufacture of the product."

A class-action lawsuit filed against Gilead, manufacturer of remdesivir, this month seeks to bypass the drug's liability shield on the basis of state laws against deceptive practices.

Attorney Ray Flores, senior counsel to CHD, said the recent Michigan court decision is "a bellwether of the courts' shifting mindset regarding quality control, injury, compensation and impunity" on the part of drug manufacturers.

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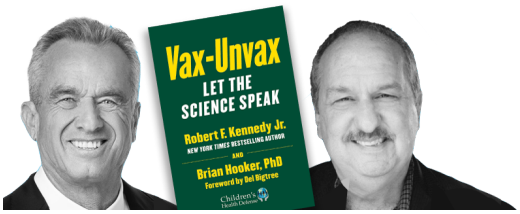


'CICP is the equivalent of a black hole'

According to Reuters, CICP "was designed to handle claims stemming from countermeasures used to treat public health emergencies like anthrax and Ebola" — which, unlike COVID-19, are "not exactly common maladies."

"As the 'payer of last resort,' it offers limited compensation for lost employment income, unreimbursed medical expenses and survivor death benefits. There are no provisions for other damages or legal fees," Reuters reported.

"Vaccines are inherently dangerous because they deliver subcutaneous toxins and pathogens designed to trigger immune system reaction," Glaser said. "To guarantee a constant supply ... the government gives pharmaceutical companies immunity because it knows the injections inevitably cause injury."

Yet, "The government doesn't know, or doesn't say, how much injury will be caused by vaccines because they don't publish long-term data on vaccine injuries, and they refuse to study genuine control groups. All vaccination is experimental in this regard," he said.

As a result, "Pharmaceutical companies have no financial incentive to actually improve their injections," Glaser added.

Since 2010, when it approved its first claim, CICP has compensated a total of 34 claims for vaccine injuries, including the first four awards for COVID-19 vaccines. U.S. government data show that CICP approved three claims for myocarditis and one for anaphylaxis. The combined payouts total $8,592.55.

By contrast, several other countries' vaccine injury compensation programs provide comparatively more generous benefits. South Korea, for example, provides families of individuals who died for any reason within 90 days of receiving a COVID-19 vaccine with approximately $22,500 as a "condolence" payment.

"The CICP does not hold hearings. Instead, cases are decided by unidentified officials based on the submitted record," Reuters reported. According to the CICP, petitioners must prove via "compelling, reliable, valid, medical and scientific evidence" that their injury was the "direct result" of the COVID-19 vaccine.

Yet, petitioners before the CICP are not allowed to review evidence, to question expert witnesses testifying on behalf of the government or present their own expert witnesses, obtain copies of their reports, perform discovery or lodge an appeal, the lawsuit states.

ICAN says that "instead of actually compensating those injured," 94% of CICP's budget "goes toward administration (i.e., federal employees)."

The complaint notes that "Taxpayer funds were used to develop, test, purchase, distribute, and promote the vaccines," which the federal government then mandated "through every avenue it legally could (and sometimes went beyond that until corrected by the judicial branch)," while incentivizing state, local and private mandates.

"Now, on the heels of the COVID-19 pandemic, the government refuses to compensate those who heeded the call and suffered the most severe vaccine injuries and, in doing so, denies them even the most basic of due process measures," the complaint states.

"CICP claims are consistently lost, ignored, denied, or caught up in the years-long purgatory of government bureaucracy. The compensation, if any, is neither timely nor adequate. Perhaps the decisions are uniform, but only in the sense that claims uniformly get lost in a black hole for years or are uniformly denied," according to the lawsuit.

Siri told The Defender that CICP also "does not provide for attorney fees, the standard of proof and process is exceedingly vague, and the damages severely limited even if liability is proven — and so people who are injured are now left to navigate the benefits request process alone as law firms would not represent them in the CICP."

Claimants have only a "short one-year window to file a request for benefits," he added.

Dressen told The Defender CICP has "stripped Americans of their essential constitutional rights" and "should never have been implemented."

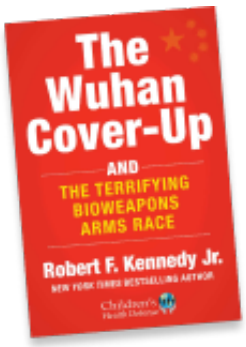
"Liability is an essential guardrail for consumer protections," she said. "To continue providing protections to the vaccine industry that makes billions of dollars a year from their products is counterintuitive. The PREP Act does not protect the American public, but those in power."

Glaser said, "People tend to think PREP only benefits pharmaceutical companies financially, but it indirectly finances bureaucratic Washington, D.C., just as much because the quasi-judicial system created by PREP protects public health authorities from liability and officially partners the government with pharmaceutical science."

In turn, this system "funds the CDC, politicians, and so much more," Glaser added, calling it "a giant racket that we've been exposing for years."

"We are confident that any court that is willing to take a look at the reality of CICP and how it functions — or does not — would find that the program in no way satisfies Americans' right to due process," Siri said. "CICP is the equivalent of a black hole, and it will be hard for anyone to

argue otherwise."



"The Wuhan Cover-Up" by Robert F. Kennedy Jr.

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'I have had everything that I love stripped from me'

The complaint states that "This case presents the heartbreaking plights of a cross-section of ordinary Americans who suffered and continue to suffer devastating and debilitating injuries which started within days of receiving a COVID-19 vaccine."

"While drugmakers reap billions of dollars in profits behind the impenetrable shield of legal immunity," plaintiffs "are left with shattered lives, mounting medical bills, ongoing testing and treatment, and in some cases, permanent disabilities and death," it adds.

According to Reuters, out of the eight individual plaintiffs, four have filed claims with CICP "but have been told there is 'no timeline' for adjudicating their cases," one's claim was denied, while three others said they were unaware of CICP's existence "and missed the strict one-year deadline to bring a case."

The plaintiffs include:

- Carolina Bourque "used to travel extensively in her role with the Louisiana Department of Wildlife and Fisheries, but after receiving the Moderna vaccine, she cannot complete basic daily tasks, travel, or even drive." She also suffers from "unbelievable" memory loss and mood swings.
- Emma Burkey, described in the complaint as "a healthy Nevada high school student" who "suffered blood clots in her brain and seizures less than two weeks after receiving the Johnson & Johnson (J&J) vaccine." In the complaint, she states, "What am I supposed to do when my best is no longer good enough?"
- Cody Flint, "a husband, father, and pilot from Mississippi with over 10,000 flight hours," who "suffered immediate adverse reactions to the Pfizer vaccine, culminating in vertigo and ruptured inner ears... which nearly resulted in a deadly plane crash" and whose family is now "flat broke" and "swamped in debt."
- Lorin Jeppsen, a father of two, "was forced to take the COVID-19 vaccine to avoid discharge

from the military." Previously in "peak physical condition," today Jeppsen "struggles to jog even a quarter mile."

- Jessica Krogmeier was required to get the COVID-19 vaccine as a nurse and "used to dream of furthering her education and advancing into nursing leadership." Today "she cannot work full time because of her ongoing symptoms."
- Erin Rhodes "spends most of her time constrained to her bed and wheelchair in Connecticut after receiving the Moderna vaccine" and "has been forced to cash out her retirement accounts to pay for ongoing medical treatment and living expenses and care for her two children." She is now at risk of losing her home.
- Alicia Smith suffers from Bell's palsy, tremors, and tachycardia, "that caused her to lose her job and clientele as a hairstylist in Louisiana."
- Michelle Zimmerman, Ph.D., "a highly educated K-12 worker in Washington" who "suffered severe adverse events" after the J&J shot and now suffers "from a severe brain injury, and unable to work, drive, or walk for more than a few minutes at a time." She said, "I have had everything that I love stripped from me."

The lawsuit states that the plaintiffs "fight daily battles to survive physically, mentally, and emotionally," but that "the demand of establishing a proof of causation has been additionally placed on their shoulders without support of experts."

"It has been a real struggle to give a voice to the voiceless," Dressen said, adding that through this lawsuit, "ICAN is forcing the government to take this seriously instead of continuing to overlook and ignore the issue."

Dressen, who has also sustained serious vaccine-related injuries for which she has sued the Biden administration and several federal agencies, said that her injuries today "are better than where I started" but that she nevertheless faces a "constant battle to stave off the progressive neuropathy now."

"The court should be aware that for every story told in this case, there are thousands upon thousands more, equally heartbreaking and unjust," Siri told The Defender.

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Lawsuit seeks 'ripple effect' allowing lawsuits against vaccine manufacturers

Plaintiffs in the lawsuit, as well as legal experts, expressed their hope that the lawsuit will lead to major changes in CICP and the PREP Act.

"If the plaintiffs prevail, then the CICP will be deemed unconstitutional under the 5th and 7th Amendments," Glaser said. "The plaintiffs would have the right to sue manufacturers (i.e., Pfizer), distributors (i.e., vaccine clinics) and mandators (i.e., colleges)."

Moreover, the plaintiffs will be able to present their case in a court of law, allowing them to "present documents and expert witnesses showing that the vaccine was not designed safely, and it was known to cause more harm than any purported benefit," Glaser said.

"The ripple effect of removing protections for covered persons and covered countermeasures would not only allow traditional, proper vehicles for recovery, but product quality and safety testing would improve substantially," Flores said.

"There would no longer be 'an impossible to refuse' incentive to carelessly and irresponsibly rush these dangerous products to market," he added.

"If ICAN succeeds, we will be able to seek financial restitution through the legal system … instead of the kangaroo court that vaccine injuries are forced to file in currently," Dressen said, referring to the National Vaccine Injury Compensation Program (VICP), which handles injury claims for 16 vaccines on the childhood vaccination schedule.

Siri said that "Vaccine court would have been an improvement over CICP, however, it would not have been a good solution," noting that the program, already facing "existing and serious problems with delays and too few special masters," would "likely have collapsed" due to the volume of COVID-19 vaccine injury claims.

"Congress could remedy the defects in CICP by amending the PREP Act so that it accomplishes the stated objective of providing timely, uniform, and adequate compensation to Plaintiffs and other individuals harmed by the COVID-19 vaccine," the lawsuit states — a recommendation also put forth by Reuters and in pending legislation.

Reuters noted that whether the plaintiffs' injuries are linked to vaccination "isn't the key issue right now." Instead, "It's whether the claimants will have a fair chance to present their arguments," adding that "Maybe a court order will spur legislators into action."

"This lawsuit is an excellent example of what can happen when different organizations come together with a central goal in mind," Dressen said. "We joined forces to show the court that there are 30,000 more. The more organizations can work with what we have in common, the more we stand united, and the stronger we are."

"This is absolutely necessary if we are going to succeed in bringing change in a dysfunctional government overrun by the pharma lobby," she added. "We can win, we will win, and we will do it together."

SUGGEST A CORRECTION

Michael Nevradakis, Ph.D.
Michael Nevradakis, Ph.D., based in Athens, Greece, is a senior reporter for The Defender and part of the rotation of hosts for CHD.TV's "Good Morning CHD."

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Got it

11 Comments

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8 Share Best Newest Oldest

C **Countrygirl1411**
3 days ago

Giving immunity to injection drug makers was one of the biggest mistakes our elected officials have made.

12 0 Reply • Share ›

Julie Hirst → Countrygirl1411
3 days ago

Agreed. There is no incentive to insure these products are safe if the manufacturers cannot be sued.

7 0 Reply • Share ›

R **ResearchGuy** → Countrygirl1411
3 days ago

It wasn't a mistake. The consequences were perfectly predictable.

4 0 Reply • Share ›

G **GarySummers** → Countrygirl1411
2 days ago

BREAKING: **"Murderers" 'Our Govt' 'The Smoking Gun'!**
Sharing Is Caring **Sharing Is Caring**
"They knew in early 2021 the Jabs would create "Blood Clots" and "Myocarditis" they Suppressed it, and deceived people to get the jabs, knowing it would Kill Americans!" Even the 'Surgeon General', and 'Pres. Biden knew!' Red State Attorney Generals?

"46 Pages FOIAed Emails Between 'CDC Leaders', 'Dr. Fauci', 'Dr. Collins', and 'White House, NIH, HHS', Show They Knew About Vaccine-Induced 'Myocarditis and Thrombotic Thrombocytopenia', a 'Blood Clotting Disorder'. Emails Over 80% Redacted."

"Attorney Edward Berkovich submitted a Freedom of Information Act (FOIA) request to the Centers for Disease Control and Prevention (CDC) stating, "I request emails sent by and received by Dr. Rochelle P. Walensky,

Sherri A. Berger, and Kevin Griffis (all of whom are CDC personnel) on dates beginning February 1, 2021 through May 31, 2021, containing the word myocarditis." DailyClout reported on the initial 472-page production from that FOIA on August 29, 2023"
https://dailyclout.io/46-pa...

1 0 Reply • Share ›

Auntjenjen Churro
3 days ago

How about legal help and assistance for the many who were murdered by hospital "protocols" and those like me, damaged for NOT getting ANY help with acute, severe covaids and systemic hell for 3+ years and still disabled? We, who didn't choose the shot but got our injuries from neglect and malpractice ...nothing? I reported for duty. That's how I got mine, then neglect and rejected from healthcare system and others. Those who signed up for it deserve help too, yes, but if them, then we as well...

10 0 Reply • Share ›

S A Golden
3 days ago

These corrupt people took advantage of vulnerable Americans and should pay the price for their incompetence arrogance and outright disregard for human life

5 0 Reply • Share ›

kris
3 days ago

And it would be bad enough if at least the heads of the pharmaceutical industry were at least making normal salaries.. say 200k or less.. but no they are making a landslide.. taking our tax dollars.. assaulting us.. and then the stock prices.. the whole thing is massive greed and assault. I hope you win! The vaccine manufactures need to be held liable.

4 0 Reply • Share ›

MultiChubby1
3 days ago

No worries. Now that we at war with Israel, Russia, China, Lebanon, Syria, Iran et al, these indignities will fade into the background.

3 0 Reply • Share ›

Clara Kung

C

2 days ago

I think Biden, all of the federal agencies, FDA, CDC, NIH, hospitals, and the doctors that help push this hospital protocol and covid and childhood vaccine , this one big corrupt circle under the arm of big pharma, should all be sentenced to go to jail or death sentences, for killing so many millions, and injuring more.. Oh, also the colleges, the big corporations that forced people to take the covid vaccine, otherwise they could not go to work or go to school.....They should all be accountable for what they have done to the people in this world. I hope you win, and give the common people some justice. I support you all

1 0 Reply • Share ›

Delner → Clara Kung

2 days ago

Agree, but remember the old adage: if you kill one person you are a murderer, but if you kill a million, you are a hero of the state!

1 0 Reply • Share ›

M

Matt

2 days ago edited

The Constitution is not rocket science. It only becomes rocket science when you appoint intellectuals to the bench who over think things. We need a mass ground swell of people demanding our courts uphold the Constitution as it was simply written. If we did you could kiss most of our bureaucracies, maybe even all of them a farewell and goodbye. The only purpose of the Federal Government should be national defense at the borders and beyond and poling the states to make sure their laws are fully constrained by the Constitution.

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